

July 20, 2007

Maine Milk Commission Special Meeting Minutes
Deering Building, Room 233
Augusta, Maine 04333

Notices for the July 20, 2007 meeting were distributed to Commission members, intervenors and other interested parties June 22, 2007 and sent to the Secretary of State's Office for posting on June 22, 2007.

Commission Present: Chair, Michael Wiers, Katherine O. Musgrave and Colon Durrell.

Commission Absent: John Joseph Jr. and Shelley Doak, *ex-officio*.

Department Officials: None

Staff Present: Stan Millay, Executive Director, Audrey Shorty, Resource Administrator and Carol Gauthier, Office Associate.

Legal Counsel: Lucinda White, Assistant Attorney General.

Intervenors Present: John Blake, H.P. Hood, Inc., Tom Brigham Oakhurst Dairy.

Others Present: Dale Cole, dairy farmer and President, MDIA, and Julie-Marie Bickford, Executive Director, Maine Dairy Industry Association (MDIA) and Fred Hardy, MDIA.

Meeting called to order at 1:40 p.m. by chair, Michael Wiers.

Agenda Item 1: Minutes: Colon Durrell made a motion to accept the minutes of the June 22, 2007 meeting as presented. Katherine Musgrave seconded. Motion passed 3-0.

Agenda Item 2: Lucinda White, Assistant Attorney General: This item passed over until later in the meeting.

Agenda Item 3: Minimum Prices: Stan Millay reported that there is a prevailing premium of \$1.10/cwt on Class I for August 2007 reported by Dairy Marketing Services (DMS) and Agri-Mark Cooperative. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.75/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect. Federal Order One Class I price for August is \$25.01.

There is a Farm Bill Counter Cyclical Payment (MILC) for August 2007 of \$0.00/cwt. Congress has reauthorized the MILC program at a reduced rate: (34% of \$16.94 minus the Class I Price).

Stan Millay explained that 6 different price schedules for August were prepared for comparison purposes using the information above plus a producer cost of production adjustment of \$0.90/cwt., \$0.59/cwt., \$0.48/cwt. \$0.36/cwt. \$0.25/cwt. and \$0.05/cwt. He further explained that many people anticipated that the Commission would consider lowering the producer cost of production adjustment given the predicted increase in milk prices for August. He stated that these price schedules were for discussion purposes and that

the Commission was not bound to them, and that the Commission should make their determination after hearing testimony.

Dale Cole reminded the Commission that milk prices were higher but not too high. He stated that market prices had been low for so long people were accustomed to it.

Julie Marie Bickford presented the Commission with handouts of news clippings that discussed, in part, increased costs of feed to producers. She stated that these costs are still increasing. She went on to say that fuel costs were still very high and were a burden on producers.

Fred Hardy told the Commission that milk prices are not too high, they are just higher.

Dale Cole told the Commission that his urea [fertilizer component] costs had increased by a large margin as had some of his other costs. He pointed out that retail milk prices were still a good buy.

Tom Brigham testified that the higher retail milk prices were affecting his company's sales. He said that he believed consumption is down due to those high prices and he requested that the Commission remove the cost of production adjustment in light of the new support levels adopted by the legislature this past spring. He stated that higher producer prices justified this reduction.

Dale Cole responded by telling the Commission that producer prices are not hurting sales. He said that compared to retail supermarket prices, the producer price was low. He went on to say that in some recent months, retail mark-up over the Commission minimums was nearly as much as the producer received.

Ms. Bickford asked if consumers were not buying as much milk or if consumers had switched from branded product to the lower priced store brands? She went to add that in some news accounts she had seen, consumption was up for many dairy products. She said that if total sales were up, then the slump in sales reported by Oakhurst could be due to a redistribution of buying trends.

Katherine Musgrave stated that in part of her work in nutrition education she has learned that dairy products are in higher demand.

Tom Brigham told the Commission that he was concerned that increased demand for dairy products would be offset by higher prices. He further stated that Maine has a different consumer income profile than southern New England and Maine's consumers cannot afford higher prices.

Dale Cole pointed out that the current cost of production adjustment of \$0.90/cwt. was equal to 8 cents per gallon and was not out of line compared to a retail markup of over \$1.50 per gallon over the minimum prices in many stores.

John Blake reminded the Commission that processors could not control retail prices and that the Commission should cap retail prices if they thought they were too high.

Chairman Wiers said that the Commission has no authority to place a cap on retail prices. He asked those in attendance if they believed premiums and cost adjustments added by the Commission were more of a factor when market prices were higher.

John Blake responded saying he thought that was true.

Chairman Wiers said the June price survey showed that retail prices increased more from June to July than the Commission's minimum.

John Blake said that a few months of price information should be used in order to determine retail's reaction to higher market prices.

Julie-Marie Bickford acknowledged that the increased value of milk would help Maine's dairy producers, but urged the Commission to exercise restraint when considering reductions in the producer cost of production adjustment. She asked if the staff had considered any price sheet options between the \$0.59/cwt. and \$0.90/cwt. examples that were made available.

Stan Millay answered saying that besides the six examples printed; the staff had looked at 4 or 5 others and had two between \$0.59/cwt. and \$0.90/cwt.; one at \$0.71/cwt. and another at \$0.82/cwt. He went to say that the price sheet examples were for comparison purposes only and were not intended to bind to the Commission to any particular numbers.

Dale Cole asked the Commission not to take away from producers so that retail could make more money.

Chairman Wiers said that in his opinion, the Commission needed to be mindful of processors and the impact of minimum prices on them. He said that retail prices and wholesale prices were two different things and that he believed the Commission needed to consider that when setting minimum prices.

Fred Hardy referred to a Boston Globe article in which \$4.99 per gallon prices were mentioned in Massachusetts. He said that Maine had similar prices. He went on to say that in his many years of experience anytime milk prices got high, everyone began blaming the producer and reduced premiums and cost of production adjustments to compensate, while at the same time, the processor continued to enjoy their margins and retail remained unrestrained.

Julie-Marie Bickford told the Commission that MDIA would support a reduction in the cost of production adjustment from \$0.90/cwt. down to \$0.71/cwt. for August milk.

Katherine Musgrave made a motion to adopt schedule #08-07 with a producer cost of production adjustment of \$0.71/cwt. with a \$25.01/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.85/cwt. as prevailing in neighboring states, plus \$0.00/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$27.77/cwt.

Tom Brigham asked for justification for adding any cost of production adjustment.

Katherine Musgrave said she believed costs were increasing for producers and that the Commission needed to recognize some of that cost.

Tom Brigham responded saying that any cost of production adjustment was anecdotal at best and that the Commission's cost of production studies did not support such an adjustment.

Julie-Marie Bickford told the Commission that the latest cost of production updates were lagging behind and did not include the most recent information. She said that the cost of fuel, sawdust, fertilizer and feed were

all much higher currently than they had been just a short while ago. She went on to say that after years of being below profitability, now was not the time to reduce producer payments.

Chairman Wiers pointed out that Chapter 26 Producer Margins is the guideline to be used in setting cost of production adjustments. He noted that the Rule adopted \$25.71/cwt. as the cost of producing milk in Maine. He said that if the producer price got over \$25.71/cwt. then the Commission must consider reductions.

Colon Durrell said that he believed that a cost of production adjustment of \$1.16/ cwt had been previously thought as not encouraging raw milk to flow into the state.

Tom Brigham stated that any increase in the minimum price for August would likely push milk over \$5 per gallon and would harm sales. He said that the processor margin is not guaranteed and was dependent on volume and therefore reducing sales reduced the margin.

John Blake informed the Commission that Hood sales were also declining due to the higher prices.

Motion passed 3-0

Agenda Item 2: Lucinda White reported that the Attorney General's Office was making some changes and that Amy Mills would be assigned to the Milk Commission in her place. This would allow time for Amy to learn about the Commission while Lucinda was still available to assist.

Agenda Item 4: Maine Monthly Price Survey: The Commission reviewed the Maine price survey for July 2007 which included prices for Augusta and Bangor and reviewed the IAMCA milk price survey for June.

Agenda Item 5: Next Scheduled Meetings:

- August 17, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- September 21, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- October 19, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- November 23, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- December 21, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

NOTE: November 23 is the day after Thanksgiving and is a state holiday. But due to the necessity of getting minimum prices out to retail as early as possible, the Commission voted to hold the November meeting on the 23rd. Staff was instructed to check with the Federal Order Market Administrator to be sure the prices would be released on the 23rd.

Agenda Item 6: Other:

1. **Milk Commission Budget:** The Commission reviewed income and expenditures.
2. **Retail Margins:** Stan Millay reported that the University of Maine continues gathering information that will be used to determine new retail margins.
3. **IAMCA Meeting in August:** Stan Millay provided an update to the Commission concerning the conference that the Commission is hosting in South Portland, Maine in August.
4. **Chapter 4 Market Areas:** Stan Millay reported that Chapter 4 had not been reviewed for quite some time. The Commission discussed the rule and the need for different market areas. Staff was instructed to prepare the rule for public hearing on August 17 to determine if there was any reason not to replace the 48 market areas now identified with one market area encompassing the entire state.
5. **Whole Foods Minimum Price Violations:** The Commission was presented with details of violations of Maine's minimum milk price law by the Whole Foods store in Portland. Stan Millay explained that the first violation occurred in December 2006 when the store was selling gallons of milk at \$2.99 while the minimum price was \$3.01. The problem was corrected when it was brought to their attention. The second violation occurred in July 2007 when the store was selling gallons at \$3.39 while the minimum price was \$3.59. Again, the problem was corrected after it was brought to their attention. Colon Durrell made a motion for staff to send a letter asking Whole Foods to provide a plan that they would put into place so that future violations would not occur. Katherine Musgrave seconded. Motion passed 3-0.

Agenda Item 7: Executive Session: The Commission did not go into Executive Session.

Adjourned: 3:15 p.m.

Stanley Millay, Executive Director, Maine Milk Commission.